

**Remarks/Arguments**

Claims 1-4, 6-11, 13-24 and 26-33 are pending in the present case.

In the Office Action mailed October 5, 2005, the Examiner applied the following rejections against the pending claims.

1. Claims 1-4, 13 and 14 are rejected under 35 U.S.C. § 112, first paragraph.
2. Claims 1-4, 6-11, 13, 14 and 32 are rejected under 35 U.S.C. § 112, second paragraph.
3. Claims 1-3, 6-8, 10, and 13 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 4,898,725 to Hoeffkes.
4. Claims 1, 3, 6-8, 10, 13, 23 and 24 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,019,281 to Singer.
5. Claims 1-3 and 13 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5, 551, 516 to Norman.
6. Claims 1-3, 13 and 14 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 4,725,372 to Teot.
7. Claims 1-3 and 13 are rejected under 35 U.S.C. §102(e) and (a) over U.S. Patent No. 5, 866,040 to Nakama.
8. Claims 1, 11 and 13 stand rejected under 35 U.S.C. §102(b) over U.S. Patent No. 4,168,302.

The examiner also indicated that claims 26-29 are rejected for being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-22 and 30 were also indicated to be allowable over the art of record.

In response to the rejections applicants have amended the claims which, when considered with the following distinguishing remarks that is believed to place all of the

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present case in condition for allowance. Favorable reconsideration of all the pending claims is respectfully requested.

### **The Specification**

Regarding the alleged missing structure on page 6 of the application, there is only one structure that appears at the top of that page. That structure is of the cationic surfactant employable in the base fluid of the invention, and the structure is the same as appears in present claim 1. Applicants have added a new structure via amendment that should solve the problem.

### **The Claims**

**Initially, claims 1-5, 12, 14, and 25-29 have been canceled without prejudice.** Applicants reserve the right to file a continuation application directed to the subject matter of these claims in due course. Any rejection of these claims is now believed to be moot and will not be addressed herein.

The examiner indicated that claims 15-22 and 30 are allowable over the art of record. Applicants' thank the examiner in this regard. Additionally, the preamble and dependency of claims 6-11 and 13 has been changed from independent claim 1 directed to an aqueous based fluid, to independent claim 15 directed to a method of fracturing a subterranean formation. These claims further limit the definition of the cationic surfactant employed in claim 15 and are believed to be allowable for the same reasons that claims 15-22 are allowable. Thus, claims 6-11, 13, 15-22 and 30 are now believed to be allowable.

Further, the examiner indicated that claims 26-29 are rejected for being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response to the examiner's comments, claims 25-29 have been canceled, and the subject matter thereof incorporated into the body of claim 23, the claim upon which

claims 26-29 previously depended on. Accordingly, claim 23 is now believed to be allowable.

Additionally, the objection to claims 31-33 has been rectified. With respect to the rejection of claim 32 under 35 U.S.C. § 112, second paragraph, the definition of "counterion" and "additive" as used in the present specification has the same meaning, i.e., they are intended to mean "activator" or "gel promoter". See, for example, page 11, lines 12-20 of the present specification. This should be contrasted X<sup>-</sup> which depicts an anion in the present application. Claim 32 refers to the addition of an additive (or as applicants have defined it, a "counterion"). This is different than the anion, X<sup>-</sup>, of claim; accordingly there is no redundancy. In view of the foregoing, claims 31-33 are believed to be in allowable condition.

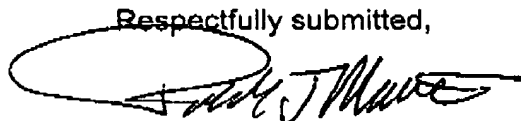
Finally, new claims 34, 35 and 36 are dependent on allowed/allowable claims 15, 23 and 32, respectively. These claims identify a specific cationic surfactant and a specific additive within the scope of the claims upon which they depend. Accordingly, these claims are also believed to be in condition for allowance.

The remaining rejections are either moot in view of applicants' amendments or overcome by their distinguishing remarks.

In summary, applicants respectfully submit that claims 6-11, 13, 15-22, 30, 31-33, and new claims 34-36 are in condition for allowance, which action is respectfully requested. Reconsideration and withdrawal of all of the rejections of record is respectfully requested.

Therefore, in view of the amendments and remarks herein, all of the pending claims are believed to be in condition for allowance, which action is respectfully solicited.

Respectfully submitted,



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